

Interview with Phyllis Schlafly

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Interviewer: Mark DePue

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DePue: I think it might be appropriate right now, to actually read the specific language of the Equal Rights Amendment, because the language is important when you're talking about the Constitution. ERA, Item one. "Equality of rights under law, shall not be denied or abridged by the United States or by any state on account of sex." Maybe I should let you comment after each one of these articles.

Schlafly: All right. Now you notice, equality is not defined and sex is not defined. Now, are we talking about the sex you are or the sex you do? We don't know. Leave that up to the Supreme Court. When you talk about equality of rights, are you talking about individuals, or are you talking about groups? Again, in one sense the language is a blank check to the Court to define it most any way they want.

DePue: But it's not dissimilar language from most of the other amendments or the language of the Constitution itself, which is, some would say, maddeningly vague in some respects.

Schlafly: No, nothing is as vague as that.

DePue: Article II. “The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.”

Schlafly: Well that means a big transfer of power from the states to the Federal Government, to Congress, over any laws that make a difference on account of sex. Now we have all kinds of laws at the state level that do make these sex differences. I’ll list some for you. The most important one, which we used very effectively to fight it, is that every state had a law that said the husband must support his wife. Now that’s a fundamental law and this is how we rallied the homemakers and wives in this country. That would have to be made sex neutral. We didn’t want that sex neutral. We believe in a traditional marriage and the wife has to have the babies, the man is not going to have the babies; society compensates for that by saying the husband has to provide the financial support. They are good laws and there were laws like that in every state, but ERA would make them sex neutral and we didn’t want that. Every wife could see that her status was threatened by the Equal Rights Amendment.

Many other laws at the state level have differences. Laws about schools, laws about prisons, laws about insurance, laws about adoptions, certain criminal laws, statutory rape laws, all kinds of laws are sex specific and would be affected by ERA and not only made sex neutral, but the power transferred to Congress.

DePue: Article III of the ERA Amendment. “This Amendment shall take effect two years after the date of ratification.”

Schlafly: Yes, well that’s customary. There was no problem with that.

DePue: What’s not in the specific language here is how long Congress gave this to actually have the opportunity to pass at the state level.

Schlafly: That’s in the preamble to it, which is before what you read. They gave them a time span of seven years, which is customary on all the later amendments, because the Supreme Court had ruled, in an important decision, that in order to change the Constitution, you have to have super-majorities in Congress and the state ratifications in a contemporaneous consensus. In other words, it has to be within some short period of time. As a matter of fact, most of the amendments that we have added, most of the twenty-seven amendments, except one in particular, were ratified within two years. So seven years was really plenty of time to achieve a contemporaneous consensus. We can talk more about that later.